

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

On January 6, 2014, plaintiffs Curtis Earls and Kamnsha Durham-Earls, proceeding *pro se* and *in forma pauperis*, filed a complaint in the King County Superior Court against the Seattle Police Department, the Seattle police chief, an unknown Seattle police sergeant, and an unknown Seattle police officer. Dkt. 1-1; *see also* Dkt. 1-7 (state court order granting motion to proceed *in forma pauperis*). At the time he filed the complaint, Mr. Earls was imprisoned at the King County Correctional Facility (“KCCF”), and to date, that remains plaintiffs’ address of record.

On February 27, 2014, defendant James Pugel, Seattle's current police chief, removed

01 plaintiffs' action to this Court. Dkt. 1. On February 28, 2014, the Court mailed a letter to Mr.
02 Earls at the KCCF, advising plaintiffs that their state court case had been removed and notifying
03 them of their new case number. Dkt. 6. That letter, however, was returned to the Court on
04 March 11, 2014, as undeliverable. Dkt. 9.

05 On March 6, 2014, Mr. Pugel filed a motion to dismiss plaintiffs' complaint pursuant to
06 Federal Rule of Civil Procedure 12(b)(6), which he served on plaintiffs by mailing a copy to
07 Mr. Earls at the KCCF. Dkt. 8 at 11. On March 27, 2014, the day before the motion to
08 dismiss was noted for the Court's consideration, plaintiffs filed a notice informing the Court
09 that they would be unavailable from March 26, 2014 to August 30, 2014. Dkt. 10. There was
10 no indication in the notice of unavailability that plaintiffs were aware of Mr. Pugel's pending
11 motion to dismiss.

12 On April 4, 2014, the Court entered an Order striking defendants' motion to dismiss
13 from the motions calendar because it was unlikely that plaintiffs received notice of the motion
14 given that the Court's letter mailed to the same address a week earlier was returned as
15 undeliverable. Dkt. 11 at 2. A copy of the Court's Order was mailed to plaintiffs at their
16 address of record but was again returned as undeliverable. Dkt. 12.

17 Pursuant to Local Civil Rule 41(b), *pro se* parties are required to keep the Court and
18 opposing parties advised of their current mailing address. Local Rules W.D. Wash. LCR
19 41(b). If mail sent to a *pro se* plaintiff by the Clerk is returned as undeliverable, and if the
20 plaintiff fails to notify the Court and opposing parties of his or her current mailing address
21 within 60 days of the mail being returned as undeliverable, the Court may dismiss the action
22 without prejudice for failure to prosecute. *Id.* Here, more than 60 days have passed since the

01 Court's Feburary 28, 2014 letter was returned as undeliverable. Accordingly, the Court
02 recommends that this action be DISMISSED without prejudice for failure to prosecute. *See*
03 Local Rules W.D. Wash. LCR 41(b). A proposed Order accompanies this Report and
04 Recommendation.

05 DATED this 16th day of May, 2014.

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08 Mary Alice Theiler
09 Chief United States Magistrate Judge
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